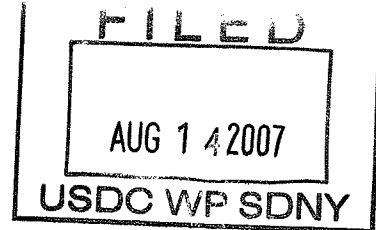


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
WAUSAU UNDERWRITERS INSURANCE  
COMPANY and AXIS SPECIALTY INSURANCE  
COMPANY,

Plaintiffs,

06 CV 3212 (VM)

-against-

NOTICE OF APPEAL

QBE INSURANCE COMPANY and SCOTTSDALE  
INSURANCE COMPANY,

Defendants.  
-----X

S I R S :

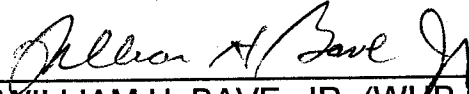
PLEASE TAKE NOTICE that Defendant, QBE INSURANCE COMPANY, in the above named case, hereby appeal to the United States Court of Appeals, for the 2<sup>nd</sup> Circuit from a Decision and Order of the United States District Court, Southern District of New York, dated July 26, 2007 (Victor Marrero, U.S.D.J.) and entered in the Southern District of New York Clerk's Office on July 27, 2007, granting partial summary with respect to QBE INSURANCE COMPANY'S obligations to defend Barney Skanska Construction Company. A copy of said Decision and Order is attached hereto as Exhibit "A".

The Defendant, QBE INSURANCE COMPANY appeal from the  
entire Decision and Order.

Dated: White Plains, New York  
August 13, 2007

Yours, etc.,

WILSON, BAVE, CONBOY, COZZA &  
COUZENS, P.C.

  
By: WILLIAM H. BAVE, JR. (WHB 0349)  
Attorneys for Defendant, QBE  
Two William Street  
White Plains, New York 10601  
(914) 686-9010

TO: UNITED STATES COURTHOUSE  
500 Pearl Street  
New York, New York 10007-1312  
Attention: Appeals Clerk

JAFFE & ASHER LLP  
Attorneys for plaintiffs, WAUSAU and AXIS  
600 Third Avenue, 9<sup>th</sup> Floor  
New York, New York 10016  
(212) 687-3000

KRAL, CLERKIN REDMOND, RYAN, PERRY & GIRVAN, LLP  
Attorneys for defendant, SCOTTSDALE  
69 East Jericho Turnpike  
Mineola, New York 11501  
(516) 742-3470

STATE OF NEW YORK                    )  
  )  
COUNTY OF WESTCHESTER        )        ss:

SANDRA REECE PALMER, being duly sworn, deposes and says:

I am secretary to WILSON, BAVE, CONBOY, COZZA & COUZENS, P.C., attorneys for Defendant, ***QBE INSURANCE COMPANY***, and I am not a party to this action.

That on the 14<sup>th</sup> day of August 2007, she served the within **NOTICE OF APPEAL** upon:

**UNITED STATES COURTHOUSE**  
500 Pearl Street  
New York, New York 10007-1312  
Attn: Appeals Clerk

**JAFFE & ASHER, LLP**  
Attorneys for Plaintiffs, ***WAUSAU UNDERWRITERS***  
***INSURANCE COMPANY and AXIS SPECIALTY***  
***INSURANCE COMPANY***  
600 Third Avenue, 9<sup>th</sup> Floor  
New York, NY 10016

**KRAL, CLERKIN, REDMOND, RYAN,**  
**PERRY & GIRVAN, LLP**  
Attorneys for Defendant, ***SCOTTSDALE INSURANCE COMPANY***  
69 East Jericho Turnpike  
Mineola, NY 11501  
(516) 742-3470

by depositing a true copy of same securely enclosed in a postpaid wrapper in the official post office box located at 2 William Street, White Plains, N.Y. 10601 and directed to the above attorney at the addresses listed above. That deponent is over 18 years of age and resides in Somers, New York.

  
SANDRA REECE PALMER

Sworn to before me the  
14<sup>th</sup> day of August 2007.

  
NOTARY PUBLIC

JOHN R. PEARSALL  
Notary Public, State of New York  
No. 01PE6135820  
Qualified in Putnam County  
Commission Expires 10/24/20 09